

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA

In re

MICHELLE H. RECKTOSH  
(a/k/a MICHELLE H. GRAZEL)

Debtor.

---

UNITED STATES TRUSTEE,

Movant,

v.

DITECH FINANCIAL LLC  
f/k/a GREEN TREE SERVICING LLC

Respondent.

Case No.: 12-20385 (CMB)

Chapter 13

Doc. No. 109

Related to Doc. No. 93

**STIPULATED AND AGREED ORDER BETWEEN DITECH FINANCIAL LLC,  
THE UNITED STATES TRUSTEE, THE CHAPTER 13 TRUSTEE, AND  
THE DEBTOR TO RESOLVE THE MOTION FOR RECONCILIATION**

Ditech Financial LLC (“Ditech”), Andrew R. Vara, Acting United States Trustee (the “United States Trustee”), the chapter 13 trustee, and the Debtor (collectively, the “Parties”) hereby file this Stipulated and Agreed Order (the “Stipulation”) in which the Parties stipulate and agree to the entry of an order (a) resolving the disputed escrow surplus amount; and (b) prohibiting Ditech from attempting to collect the escrow surplus from the Debtor at any time.

**BACKGROUND**

1. On January 28, 2012, Michelle H. Recktosh (a/k/a Michelle H. Grazel) (the “Debtor”) filed a voluntary petition for relief under chapter 13 of title 11 of the United States Code, 11 U.S.C § 101 *et seq.*, (the “Bankruptcy Case”) in the United States Bankruptcy Court for the Western District of Pennsylvania (the “Court”).

2. On April 16, 2012, Bank of America, N.A., filed a proof of claim in the Bankruptcy Case [Claim No. 11].
3. On April 20, 2013, Bank of America filed a notice of transfer of claim from Bank of America, N.A. to Ditech [Doc. No. 44].
4. On March 13, 2017, the chapter 13 trustee filed the *Notice of Final Cure Payment* regarding claim number 11 [Doc. No. 79].
5. On March 29, 2017, Ditech filed its *Response to Notice of Final Cure Mortgage Payment* [Doc. No. 85] stating that the Debtor is current with all postpetition payments.
6. On April 4, 2017, the United States Trustee filed the *Motion for Escrow Account Reconciliation Statement, Including Waiver of Unnoticed Escrow Charges or Refund of Escrow Surplus* (the “Motion for Reconciliation”) [Doc. No. 93].
7. In response to the United State Trustee’s Motion for Reconciliation, Ditech reviewed the Debtor’s escrow account and determined that a \$763.33 escrow surplus is present in the Debtor’s escrow account. As more fully set forth in the escrow reconciliation table attached hereto as **Exhibit A**, the Debtor’s escrow account is current.

#### **STIPULATION**

8. Ditech consents to the jurisdiction of this court to enter the proposed Stipulation. This court reserves jurisdiction to rule on any disputes and to enforce this Stipulation.
9. This Stipulation shall be interpreted as if drafted by all Parties.
10. This Stipulation contains all of the terms of the Parties’ agreement and supersedes any prior understandings or agreements.
11. Ditech’s electronic, scanned, or facsimile signatures on this Stipulation shall be valid for all purposes as though they were original signatures.

12. This Stipulation shall in no way limit the Parties' rights, or be binding upon the Parties, in any other cases.

13. Ditech will file Notices of Mortgage Payment Change as required by Fed. R. Bankr. P. 3002.1 for any further changes in the Debtor's ongoing monthly mortgage payments.

14. Ditech will ensure that its system of record reflects the account adjustments contemplated herein.

15. Ditech will pay the \$763.33 escrow surplus to the chapter 13 trustee contemporaneously with the execution of the Stipulation and agrees not to pursue the \$763.33 surplus from the Debtor at any time.

16. Based on Parties' agreement herein, the United States Trustee withdraws his Motion for Reconciliation.

17. The Parties shall each bear their own respective attorneys' fees and costs.

18. To the extent required, Ditech waives personal service of this Stipulation. The Stipulation may be served on Jared S. Roach, Reed Smith LLP, Reed Smith Centre, 225 Fifth Avenue, Pittsburgh, PA 15222-2716 by ECF Notice and/or First Class U.S. Mail.

*[Remainder of page intentionally left blank]*

**AGREED TO AND ACCEPTED BY:**

Dated: September 20, 2017

<p>REED SMITH LLP</p> <p><u>/s/ Jared S. Roach</u> Jared S. Roach (PA ID No. 307541) Reed Smith Centre 225 Fifth Avenue, Suite 1200 Pittsburgh, PA 15222 Telephone: (412) 288-3131 Facsimile: (412) 288-3063 Email: jroach@reedsmith.com</p> <p><i>Counsel to Ditech Financial LLC</i></p>	<p>ANDREW R. VARA, ACTING UNITED STATES TRUSTEE</p> <p>By: <u>/s/ Norma Hildenbrand</u> Norma Hildenbrand, Trial Attorney PA ID 70421 Liberty Avenue Pittsburgh, PA 15222 (412) 644-4756 Telephone (412) 644-4785 Facsimile norma.l.hildenbrand@usdoj.gov</p>
<p>CHAPTER 13 TRUSTEE</p> <p><u>/s/ Ronda J. Winnecour</u> Ronda J. Winnecour, Esq. Suite 3250, USX Tower 600 Grant Street Pittsburgh, PA 15219</p>	<p><u>/s/ James E. Miscavage</u> James E. Miscavage 55 Old Clairton Road Suite 204 Pleasant Hills, PA 15236 jamesmiscavage@gmail.com <i>Counsel for the Debtor</i></p>

Dated: September 22, 2017

BY THE COURT:

  
CARLOTA M. BÖHM dmr  
UNITED STATES BANKRUPTCY COURT

FILED  
9/22/17 9:07 am  
CLERK  
U.S. BANKRUPTCY  
COURT - WDPA

**Exhibit A**

Payments to Escrow		Payments from Escrow		Escrow Balance
DATE	ACTUAL	ACTUAL	DESCRIPTION	ACTUAL
04/10/13			STARTING BAL	\$134.22
04/10/13	\$469.14		Monthly payment	\$603.36
04/18/13		(\$78.64)	PMI DSB	\$524.72
04/22/13	\$13.90		Monthly payment	\$538.62
05/08/13	\$469.14		Monthly payment	\$1,007.76
05/21/13		(\$78.64)	PMI DSB	\$929.12
05/21/13		(\$78.64)	PMI DSB	\$850.48
05/29/13	\$469.14		Monthly payment	\$1,319.62
05/29/13	\$469.14		Monthly payment	\$1,788.76
06/21/13		(\$78.64)	PMI DSB	\$1,710.12
06/29/13	\$469.14		Monthly payment	\$2,179.26
07/26/13		(\$78.64)	PMI DSB	\$2,100.62
07/30/13	\$469.14		Monthly payment	\$2,569.76
08/15/13		(\$2,200.06)	SCHOOL TAX	\$369.70
08/15/13		(\$78.64)	PMI DSB	\$291.06
08/31/13	\$469.14		Monthly payment	\$760.20
09/18/13		(\$78.64)	PMI DSB	\$681.56
09/24/13		(\$717.00)	HAZ INS	(\$35.44)
09/30/13	\$469.14		Monthly payment	\$433.70
09/30/13	\$469.14		Monthly payment	\$902.84
10/24/13		(\$76.72)	PMI DSB	\$826.12
10/29/13	\$469.14		Monthly payment	\$1,295.26
11/21/13		(\$76.72)	PMI DSB	\$1,218.54
11/26/13	\$469.14		Monthly payment	\$1,687.68
12/23/13		(\$76.72)	PMI DSB	\$1,610.96
01/21/14		(\$76.72)	PMI DSB	\$1,534.24
02/19/14		(\$76.72)	PMI DSB	\$1,457.52

02/22/14		(\$477.45)	COUNTY TAX	\$980.07
03/13/14		(\$76.72)	PMI DSB	\$903.35
04/21/14		(\$76.72)	PMI DSB	\$826.63
04/26/14		(\$895.28)	CITY TAX	(\$68.65)
05/20/14		(\$76.72)	PMI DSB	(\$145.37)
06/02/14	\$469.14		Monthly payment	\$323.77
06/16/14		(\$76.72)	PMI DSB	\$247.05
06/30/14	\$434.20		Monthly payment	\$681.25
06/30/14	\$434.20		Monthly payment	\$1,115.45
06/30/14	\$297.33		Monthly payment	\$1,412.78
07/11/14		(\$76.72)	PMI DSB	\$1,336.06
07/26/14	\$136.87		Monthly payment	\$1,472.93
08/19/14		(\$76.72)	PMI DSB	\$1,396.21
08/27/14		(\$2,685.40)	SCHOOL TAX	(\$1,289.19)
09/17/14		(\$76.72)	PMI DSB	(\$1,365.91)
09/24/14		(\$979.00)	HAZ INS	(\$2,344.91)
10/13/14		(\$75.20)	PMI DSB	(\$2,420.11)
11/11/14	\$469.14		Monthly payment	(\$1,950.97)
11/11/14	\$469.14		Monthly payment	(\$1,481.83)
11/11/14	\$469.14		Monthly payment	(\$1,012.69)
11/11/14	\$104.82		Monthly payment	(\$907.87)
11/21/14		(\$75.20)	PMI DSB	(\$983.07)
12/02/14	\$469.14		Monthly payment	(\$513.93)
12/11/14		(\$75.20)	PMI DSB	(\$589.13)
12/30/14	\$469.14		Monthly payment	(\$119.99)
12/30/14	\$469.14		Monthly payment	\$349.15
01/19/15		(\$75.20)	PMI DSB	\$273.95
01/30/15	\$469.14		Monthly payment	\$743.09
02/18/15		(\$75.20)	PMI DSB	\$667.89
02/21/15		(\$477.45)	COUNTY TAX	\$190.44

02/28/15	\$469.14		Monthly payment	\$659.58
02/28/15	\$469.14		Monthly payment	\$1,128.72
03/16/15		(\$75.20)	PMI DSB	\$1,053.52
03/21/15		(\$762.10)	CITY TAX	\$291.42
03/31/15	\$469.14		Monthly payment	\$760.56
04/11/15		(\$236.77)	Other	\$523.79
04/20/15		(\$75.20)	PMI DSB	\$448.59
04/25/15		(\$895.28)	Delinquent	(\$446.69)
04/27/15	\$236.77		Other Refund	(\$209.92)
04/30/15	\$469.14		Monthly payment	\$259.22
05/20/15		(\$75.20)	PMI DSB	\$184.02
05/29/15	\$469.14		Monthly payment	\$653.16
06/18/15		(\$75.20)	PMI DSB	\$577.96
06/30/15	\$469.14		Monthly payment	\$1,047.10
07/22/15		(\$75.20)	PMI DSB	\$971.90
07/31/15	\$469.14		Monthly payment	\$1,441.04
07/31/15	\$469.14		Monthly payment	\$1,910.18
08/12/15		(\$2,683.69)	SCHOOL TAX	(\$773.51)
08/21/15		(\$75.20)	PMI DSB	(\$848.71)
08/31/15	\$469.14		Monthly payment	(\$379.57)
09/18/15		(\$75.20)	PMI DSB	(\$454.77)
09/23/15		(\$998.00)	HAZ INS	(\$1,452.77)
10/02/15	\$469.14		Monthly payment	(\$983.63)
10/12/15		(\$72.52)	PMI DSB	(\$1,056.15)
10/29/15	\$469.14		Monthly payment	(\$587.01)
11/16/15		(\$72.52)	PMI DSB	(\$659.53)
11/30/15	\$469.14		Monthly payment	(\$190.39)
11/30/15	\$469.14		Monthly payment	\$278.75
12/29/15	\$469.14		Monthly payment	\$747.89
01/29/16	\$469.14		Monthly	\$1,217.03

			payment	
02/27/16		(\$477.45)	COUNTY TAX	\$739.58
02/29/16	\$469.14		Monthly payment	\$1,208.72
03/31/16	\$469.14		Monthly payment	\$1,677.86
04/13/16		(\$934.41)	CITY TAX	\$743.45
04/27/16	\$469.14		Monthly payment	\$1,212.59
06/01/16	\$469.14		Monthly payment	\$1,681.73
07/14/16	\$469.14		Monthly payment	\$2,150.87
08/12/16	\$469.14		Monthly payment	\$2,620.01
08/22/16		(\$2,681.39)	SCHOOL TAX	(\$61.38)
09/24/16		(\$986.00)	HAZ INS	(\$1,047.38)
09/30/16	\$469.14		Monthly payment	(\$578.24)
10/11/16	\$469.14		Monthly payment	(\$109.10)
11/03/16	\$469.14		Monthly payment	\$360.04
12/01/16	\$469.14		Monthly payment	\$829.18
12/31/16	\$469.14		Monthly payment	\$1,298.32
12/31/16	\$0.33		IOE DEPOSIT	\$1,298.65
02/24/17		(\$477.45)	COUNTY TAX	\$821.20
03/02/17	\$469.14		Monthly payment	\$1,290.34
03/22/17	\$469.14		Monthly payment	\$1,759.48
04/03/17	\$469.14		Monthly payment	\$2,228.62
04/24/17		(\$934.41)	CITY TAX	\$1,294.21
05/03/17	\$588.34		Shortage waiver	\$1,882.55
05/10/17	\$469.14		Monthly payment	\$2,351.69
06/13/17	\$469.14		Monthly payment	\$2,820.83
08/01/17	\$423.28		Monthly payment	\$3,244.11
08/15/17	\$423.28		Monthly payment	\$3,667.39



08/23/17	\$762.10		Waiver	\$4,429.49
08/28/17		(\$2,680.43)	SCHOOL TAX	\$1,749.06

In re:  
Michelle Helen Recktoosh  
Debtor

Case No. 12-20385-CMB  
Chapter 13

### CERTIFICATE OF NOTICE

District/off: 0315-2

User: dric  
Form ID: pdf900

Page 1 of 1  
Total Noticed: 2

Date Rcvd: Sep 22, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 24, 2017.

db +Michelle Helen Recktoosh, 1036 Kentucky Blue Drive, West Mifflin, PA 15122-3106  
+Perry A. Napolitano, Reed Smith, LLP, 225 Fifth Avenue, Pittsburgh, PA 15222-2716

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Sep 24, 2017

Signature: /s/Joseph Speetjens

### CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 22, 2017 at the address(es) listed below:

Andrew F Gornall on behalf of Creditor BANK OF AMERICA, N.A. agornall@goldbecklaw.com,  
bkgroup@goldbecklaw.com/bkgroup@kmlawgroup.com  
Daniel Mark Campbell on behalf of Creditor RBS Citizens dcampbell@hunton.com,  
sklein@hunton.com  
James Warmbrodt on behalf of Creditor BANK OF AMERICA, N.A. bkgroup@kmlawgroup.com  
James E. Miscavage on behalf of Debtor Michelle Helen Recktoosh jamesmiscavage@gmail.com  
Jared S. Roach on behalf of Creditor Ditech Financial LLC jroach@reedsmith.com,  
bankruptcy-2628@ecf.pacerpro.com;slucas@reedsmith.com  
Maura P. Nuno on behalf of Creditor Ditech Financial LLC mnuno@reedsmith.com  
Norma Hildenbrand, on Behalf of the United States Trustee by on behalf of U.S. Trustee  
Office of the United States Trustee Norma.L.Hildenbrand@usdoj.gov  
Office of the United States Trustee ustpreion03.pi.ecf@usdoj.gov  
Ronda J. Winnecour cmecf@chapter13trusteedpa.com  
S. James Wallace on behalf of Creditor Equitable Gas Bankruptcy Department sjw@sjwpggh.com,  
Equitablebankruptcy@peoples-gas.com;srk@sjwpggh.com

TOTAL: 10